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Date January 4, 2005
To Office of Petitions
Company US Patent Office
Fax (703) 872-9306
From Jennifer Warner for Donald Nickels
Phone (614) 757-5491
Fax (614) 757-2243
Subject US Patent Appl. No. 10/016,352

Petition to Reissue Unintentionally
Abandoned Application.
Pages 14 (including this page)

Notes:

Your Ref.: _____

Our Ref.: RPS60097-US

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JAN. 4. 2005 2:41PM CARDINAL HEALTH INC.

NO. 427 P. 2

PTO-1050 (09-04)

Approved for use through 07/31/2006, OMB 0651-0031
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
RPS6097-US

First named inventor: Keith Tanner

Application No.: 10/016,352

Art Unit: 1722

Filed: November 2, 2001

Examiner: Joseph S. Del Sole

Title: APPARATUS AND METHOD FOR MANUFACTURING ENCAPSULATED PRODUCTS

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Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity - fee \$ 1500.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of authorization in the Statement of Donald Nickey (identify type of reply):

has been filed previously on _____
 is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ 1700.00.
 has been paid previously on _____.
 is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

JAN. 4. 2005 2:41PM

CARDINAL HEALTH INC.

NO. 427 P. 3
PTO-1050 (09-04)Approved for use through 07/31/2006, OMB 0651-0031
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Signature

Date

Donald O. Nickey

29,092

Typed or printed name

Registration Number, if applicable

7000 Cardinal Place

614-757-5542

Address

Telephone Number

Dublin, Ohio 43017

Address

Enclosures: Fee Payment Reply Terminal Disclaimer Form Additional sheets containing statements establishing unintentional delay Other: Issue Fee; publication fee and petition fee

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (703) 872-9306.

Date

Signature

Jennifer S. Warner

Typed or printed name of person signing certificate

JAN. 4. 2005 2:41PM

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NO. 427 P. 4

JAN 04 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:

Applicant: Tanner et al. Atty. Docket No.: RPS6097-US
Serial No.: 10/016,352 Examiner: Joseph S. Del Sole
Filing Date: November 2, 2001 Art Unit: 1722
Entitled: APPARATUS AND METHOD FOR MANUFACTURING ENCAPSULATED PRODUCTS

Office of Petitions
Commissioner for Patents
MAIL STOP – PETITIONS (FEE)
P.O. Box 1450
Alexandria, Virginia 22313-1450

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.6(d)

Date of Deposit: 1/4/05

I hereby certify that this correspondence is being sent to the Office of Petitions, Commissioner for Patents, MAIL STOP –PETITIONS (FEE), P.O. Box 1450, Alexandria, Virginia 22313-1450 via facsimile to (703) 872-9306.

Jennifer S. Warner
Jennifer Warner

STATEMENT OF DONALD O. NICKEY IN SUPPORT OF THE PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION

Dear Sir:

This communication is in support of the Petition to Revive an Unintentionally Abandoned Application, submitted contemporaneously herewith. A copy of the Notice of Abandonment, Mailed September 24, 2004 is attached hereto. The reason for abandonment was allegedly Applicant's failure to timely pay the issue fee due August 17, 2004. On October 5, 2004, Applications submitted a Petition to withdraw the Holding of Abandonment Pursuant to 37 CFR 1.181. In this Petition, Applicants indicated that the issue fee was filed via express mail on August 16, 2004, however, no express mail receipt or postcard was ever received. It is Applicants assumption that the Express Mail envelope was lost at the Post Office. When re-submitting the Issue Fee Transmittal form with the Petition, Applicants attorney mistakenly

crossed out the original date on the Form (08/16/04) and inserted the date of the Petition (10/05/04). A copy of the Issue Fee Transmittal form showing the mistakenly crossed-out dates is attached hereto. As a result, the USPTO denied Applicant's Petition in its decision dated December 7, 2004, a copy of which is attached. Therefore, Applicants submit this Petition to Revive and respectfully request that the Patent Office allow this application to proceed to grant.

Applicants also authorize and request the Commissioner to withdraw the funds associated with the Issue Fee and publication fee (\$1,700.00) and the petition fee (\$1500.00) from the undersigned's Deposit Account No. 50-0256. A duplicate of this document is enclosed.

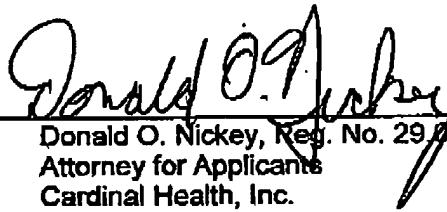
Again, Applicants wish to reiterate that the issue fee was timely filed and that crossing out the date in the Petition to Withdraw the Holding of Abandonment, which caused the dismissal of the Petition to Withdraw by the PTO, was mistaken and unintentional.

Should the Director require additional information, he is invited to contact the undersigned.

Respectfully submitted,

Date: Jan 4, 2005

By:


Donald O. Nickey, Reg. No. 29,092
Attorney for Applicants
Cardinal Health, Inc.
7000 Cardinal Place
Dublin, Ohio 43017
Telephone: (614) 757-5542
Facsimile: (614) 757-2243

JAN. 4. 2005 2:42PM

CARDINAL HEALTH INC.

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JAN 04 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:

Applicant: Tanner et al. Atty. Docket No.: RPS6097-US
Serial No.: 10/016,352 Examiner: Joseph S. Del Sole
Filing Date: November 2, 2001 Art Unit: 1722
Entitled: APPARATUS AND METHOD FOR MANUFACTURING ENCAPSULATED PRODUCTS

Office of Petitions
Commissioner for Patents
MAIL STOP – PETITIONS (FEE)
P.O. Box 1450
Alexandria, Virginia 22313-1450

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.6(d)

Date of Deposit: 1/4/05

I hereby certify that this correspondence is being sent to the Office of Petitions, Commissioner for Patents, MAIL STOP –PETITIONS (FEE), P.O. Box 1450, Alexandria, Virginia 22313-1450 via facsimile to (703) 872-9306.

Jennifer S. Warner
Jennifer Warner

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crossed out the original date on the Form (08/16/04) and inserted the date of the Petition (10/05/04). A copy of the Issue Fee Transmittal form showing the mistakenly crossed-out dates is attached hereto. As a result, the USPTO denied Applicant's Petition in its decision dated December 7, 2004, a copy of which is attached. Therefore, Applicants submit this Petition to Revive and respectfully request that the Patent Office allow this application to proceed to grant.

Applicants also authorize and request the Commissioner to withdraw the funds associated with the Issue Fee and publication fee (\$1,700.00) and the petition fee (\$1500.00) from the undersigned's Deposit Account No. 50-0256. A duplicate of this document is enclosed.

Again, Applicants wish to reiterate that the issue fee was timely filed and that crossing out the date in the Petition to Withdraw the Holding of Abandonment, which caused the dismissal of the Petition to Withdraw by the PTO, was mistaken and unintentional.

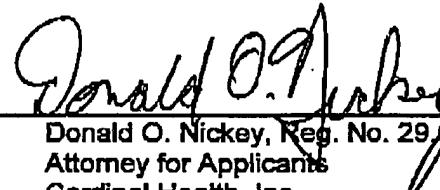
Should the Director require additional information, he is invited to contact the undersigned.

Respectfully submitted,

Date:

Jan 4, 2005

By:


Donald O. Nickey, Reg. No. 29,692
Attorney for Applicants
Cardinal Health, Inc.
7000 Cardinal Place
Dublin, Ohio 43017
Telephone: (614) 757-5542
Facsimile: (614) 757-2243

JAN. 4. 2005 2:42PM CARDINAL HEALTH INC.



UNITED STATES DEPARTMENT OF COMMERCE, 8CE

United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

| APPLICATION NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NO. |
|--------------------|-------------|-----------------------|---------------------|
| 10/016,352 | | | |
| | | | EXAMINER |
| | | | |
| | | ART UNIT | PAPER NUMBER |
| | | | |

DATE MAILED:

NOTICE OF ABANDONMENT

This application is abandoned in view of:

- Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
- A reply (with Certificate of Mailing or Transmission of _____) was received on _____ which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
- A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- A reply was received on _____, but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in the last box below).
- No reply has been received.
- Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
- The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85) (or Notice of Publication Fee Due).
- The submitted fee of \$ _____ is insufficient. A balance of \$ _____ is due.
The issue fee by 37 CFR 1.18 is \$ _____. The publication fee, if required, by 37 CFR 1.18(d) is \$ _____.
- The issue fee and publication fee, if applicable, have not been received.
- Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).
- Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
- No corrected drawings have been received.
- The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all the applicants.
- The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon filing of a continuing application.
- The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- The reason(s) below:
Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Serial No. 101016,252 Filing Date: 11/18/01 Atty. Docket No.: RPS6097-US
 Applicant: Tanner et al.
 Title: APPARATUS AND METHODS FOR MANUFACTURING
ENCAPSULATED PRODUCTS

The PTO stamp hereon acknowledges receipt of the indicated documents.

- Patent Application with:
 - pages of claims
 - pages of drawings - formal/informal
 - Fee Transmittal form
 - Utility Application Transmittal form
 - Inventor Declaration (includes POA)
 - Separate Power of Attorney
 - IDS with 1449
 - copies of cited references enclosed
 - Fee Transmittal form
 - Issue fee transmittal forms
 - Request for Extension of Time
 - Certificate of Mailing date of 10/15/04 via
 - First class mail - postage prepaid
 - Express Mail No. EV404972943US

- Other: Petition to withdraw
holding of Abandonment
Statement of W. Warner
Express mail document
- Response to:
 - Notice to Filing Missing Parts
 - Office Action
 - Fee Transmittal
 - Extension of Time
 - PCT related forms

Mail Stop - PETITIONS (NO FEE)



EV 404972943 US

Mailing Label
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WARRANT OF SIGNATURE: I declare that the merchandise, insurance or void value of package(s) described, when delivery is to be made without obstruction, is my responsibility. I also declare that delivery is to be made without obstruction to addressee or addressee's agent. If delivery employee judges that article cannot be delivered without obstruction, he will leave it with addressee or addressee's agent and charge him/her the amount of insurance paid. I further declare that delivery is to be made at time and place specified on this instrument.

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| Federal Agency Acct. No. or Postal Service Acct. No. | | Employee Signature | |
| FROM: (PLEASE PRINT) | | TO: (PLEASE PRINT) | |
| PHONE: <u>614 757-5491</u> | | PHONE: _____ | |
| CARDINAL HEALTH INC 7000 CARDINAL PL DUBLIN OH 43017-1692 Attn: Jennifer Warner RPS6097-US | | Commissioner for Patents MAIL STOP - PETITIONS (NO FEE) P.O. Box 1450 Alexandria, Virginia 22313-1450 | |

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PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail

Mail Stop ISSUE FEE
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark up with any corrections or use Block 1)

7590 05/17/2004

Donald O. Nickey
 Cardinal Health, Inc.
 7000 Cardinal Place
 Dublin, OH 43017

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
 I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO on the date indicated below.

Jennifer Warner
 Jennifer Warner
 8/17/04. Oct 5, 2004 (Date)

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/016,352 | 11/02/2001 | Keith Tanner | RPS6097-US | 3443 |

TITLE OF INVENTION: APPARATUS AND METHOD FOR MANUFACTURING ENCAPSULATED PRODUCTS

| APPLN. TYPE | SMALL ENTITY | ISSUE FEE | PUBLICATION FEE | TOTAL FEE(S) DUE | DATE DUE |
|---|--------------|-----------|-----------------|------------------|------------|
| nonprovisional | NO | \$1330 | \$300 | \$1630 | 05/17/2004 |
| EXAMINER | | ART UNIT | CLASS-SUBCLASS | | |
| DEL SOLE, JOSEPH S | | 1722 | 425-224000 | | |
| 1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). | | | | | |
| <input type="checkbox"/> Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached. <input type="checkbox"/> "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required. | | | | | |
| 2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. | | | | | |
| 3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type) | | | | | |

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

R.P. Scherer Technologies, Inc.

LAS Vegas, Nevada (USA)

Please check the appropriate assignee category or categories (will not be printed on the patent): individual corporation or other private group entity government

43. The following fee(s) are enclosed:

4b. Payment of Fee(s):

Issue Fee
 Publication Fee
 Advance Order - # of Copies 5

A check in the amount of the fee(s) is enclosed.
 Payment by credit card. Form PTO-2038 is attached.
 The Director is hereby authorized to charge the required fee(s), or credit any overpayment, to Deposit Account Number 50-022510 (enclose an extra copy of this form).

Director for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

| | |
|---|-------------------------------|
| (Authorized Signature) Donald O. Nickey | (Date) 8/17/04 Oct 5, 2004 |
| NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant, a registered attorney or agent, or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office. | |
| This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Alexandria, Virginia 22313-1450. | |
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TRANSMIT THIS FORM WITH FEE(S)

JAN. 4. 2005 2:43PM

CARDINAL HEALTH INC.

NO. 427 P. 11



UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 30 2004

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|--------------------------------|
| 10/016,352 | 11/02/2001 | Keith Tanner | RPS6097-US | 3443 |
| 7590 | 09/24/2004 | | | EXAMINER DEL SOLE, JOSEPH S |
| Donald O. Nickey Cardinal Health, Inc. 7000 Cardinal Place Dublin, OH 43017 | | | ART UNIT 1722 | PAPER NUMBER |

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

JAN. 4. 2005 2:43PM

CARDINAL HEALTH INC.

NO. 427 P. 12



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UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 07 2004

Director's Office
Office of Patent Publication

In re Application of
Keith Tanner, et al.
Application No. 10/016,352
Filed: November 20, 2001
Attorney Docket No. RPS6097-US

DECISION ON PETITION

This is a decision on the Petition To Withdraw The Holding Of Abandonment Pursuant to 37 CFR § 1.181, received in the United States Patent and Trademark Office (USPTO) on October 5, 2004.

The petition is **DISMISSED**.

The application was held abandoned for failure to timely pay the issue fee as required in the Notice Of Allowance and Fee(s) Due, mailed May 17, 2004, which set a three (3) month statutory period for reply. Accordingly, the Notice of Abandonment was mailed on September 24, 2004.

Petitioner states that the issue fee was filed via express mail on August 16, 2004. In support of this assertion petitioner has submitted herewith a copy of the Express Mail mailing label, post card, Part B - Fee(s) Transmittal, Notice of Allowability and the Examiners, Reason For Allowance. Also, a Statement In Support Of Petition To Withdraw Holding Of Abandonment — Declaration of Jennifer Warner—was received.

In order for a petition to be granted, the evidence must be sufficient according to one of the following standards:

- MPEP 503 (postcard receipt as *prima facie* evidence)
- Certificate of Mailing under 37 CFR 1.8(b)
- "Express Mail" Mailing under 37 CFR 1.10

Application No. 10/016,352

Page 2

MPEP 503 Return Postcard is not applicable since there's no evidence that the postcard was returned with the "Office Date" stamp receipt thereon. See MPEP 505

Provisions under 37 CFR 1.8(b) requires that petitioner (1) promptly inform the Office of the previous timely mailing or transmission after becoming aware that the Office has no evidence of receipt of the correspondence, (2) supply copies of the previously mailed correspondence with certificate of mailing thereon, and (3) include a statement which attests to the previous timely mailing.

Petitioner doesn't fully satisfy requirement (2) in that, the date indicated on the Certificate of Mailing of October 5, 2004, is after the date due for the paying the required fee(s). The applicant crossed out the date of August 16, 2004.

With respect to the submission under 37 CFR 1.10 Express Mail requires that the petitioner (1) promptly file the petition after becoming aware that the Office has no evidence of receipt of the correspondence, (2) the number of the "Express Mail" mailing label was placed on the paper(s) or fee(s), (3) includes a copy of the originally deposited papers(s) or fee(s) showing the number of the "Express Mail" mailing label thereon, copy of the returned postcard receipt, copy of the "Express Mail" mailing label showing the "date in" and (3) includes a statement from the person who actually did the mailing.

Petitioner doesn't satisfy requirement (2) in that, the copy of the correspondence—Part B – Fee(s) Transmittal—doesn't include the number of the "Express Mail" mailing label, and the copy of the "Express Mail" mailing label doesn't show the "date-in".

The petitioner should consider petitioning as follows:

File a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). The new rule change appears in 62 Federal Regulations, October 10, 1997 or 1203 of the Official Gazette 63, October 21, 1997, 65 FR 57057, Sept. 20, 2000, 68 FR 14332, Mar. 25, 2003, 69 FR 56481, Sept. 21, 2004.

- Under 37 CFR 1.137(a), a petition for the revival of an *unavoidably* abandoned application must be accompanied by the following:

- (1) The required reply to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee set forth in § 1.17(l);
- (3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

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- Under 37 CFR 1.137(b), a petition for the revival of an *unintentionally abandoned* application must be accompanied by the following:

- (1) The required reply to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

Further correspondence with respect to the petition for revival under 37 CFR 1.137 should be directed to the Office Of Petition at 703-305-9282 or addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquiries concerning this matter may be directed to the Office of Petitions at 703-305-9282.

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